

## **REMARKS**

The non-elected method claims 20-24 are cancelled in view of the restriction requirement.

As to the election of species requirement for the remaining claims, Applicant has provisionally elected the species of embodiment Figures 5A and 5B. It is noted that all of the independent apparatus claims presented herein are readable on Figures 5A and 5B, the elected species. However these independent claims are also all readable on all of the other drawing figures. Since all of these independent apparatus claims have been amended and are now believed allowable over the art of record, it is requested that all of the apparatus claims be allowed including dependent claims which are not necessarily drawn to the species of Figures 5A and 5B.

The disclosure objection noted by the Examiner in the specification has been corrected.

The 35 U.S.C. §112 problems noted by the Examiner have been corrected.

The Examiner indicated that claims 5 and 6 together with claim 16 would all be allowable if placed in independent form. This has been done by making claim 5 independent and making claim 16 independent. Thus claims 5, 6, and 16 are deemed allowable.

Applicant thanks the Examiner for the telephone interview granted May 5 in which the rejection of claims 1-2, 7-10, 12-13, and 19 under 35 U.S.C. §103 as unpatentable over Nordstrom in view of Graf was discussed. During the interview language very similar to that presented in the amended independent apparatus claims presented herein was discussed with the Examiner. The Examiner believed that such language did distance the claims from Nordstrom but the Examiner

reserved a final decision pending a review of this detailed Amendment and the arguments contained herein.

Claim 1 distinguishes over the combination of Nordstrom with Graf for the following reasons. First, the claim recites in the preamble a cushioned banding anchor system for securement of a load to a loading platform by use of a band having a loop at least at one end. The claim further recites after the preamble the banding anchor body with the cushioned roller being designed to be positioned within the loop of the band.

As explained during the interview, Nordstrom does not use a band in conjunction with the rollers 16 or the arm 12 shown in Fig. 1. The load rolls over the rollers 16 and rests at its side edge against the V-shaped abutment member 20. Thus it would be impossible to attach a band to the roller 16 or within the loop of the arm 12. The load would block any such attachment.

The Examiner indicated that he was giving some weight to the language in claim 16 relating to the use of the band, the recitation of a cushioned banding anchor system, and the recitation of the cushioned roller being designed to be positioned within the loop of the band, but was giving little weight to such language since it was functional. The Examiner did agree that language in the preamble should be given weight where that preamble language is also found in the body of the claim, in accordance with Federal Circuit precedent.

Although the Examiner indicated he was giving little weight to the functional language, the language at issue relating to banding and a band is not functional but rather *is structural*. Claim 1 is for the *structure* of a cushioned banding anchor system. Furthermore, the cushioned roller is structurally designed to be positioned within the loop of the band. These are structural, not functional recitations. The

Nordstrom swinging arm 12 with rollers 16 is simply not a *banding* anchor system. The load prevents the rollers 16 from being part of a banding anchor system retaining the loop of a band. They are load-supporting rollers not a band retaining roller. This is a structural, not functional, difference. In summary, Nordstrom is simply not a cushioned banding anchor system. Thus claim 16 distinguishes by the structural recitation of a "banding anchor system."

Claim 1 further structurally distinguishes by reciting that the banding anchor body is retained within an inside aperture of the anchor body, wherein the banding anchor body has a loop portion at one end for connecting to the frame attachment of the loading platform, and wherein at least a portion of a connecting structure associated with said frame attachment passes through said inside aperture and is retained by said loop portion. In the preferred embodiment of Fig. 5B this can be seen where structure is provided passing through said aperture where the cushioned roller is located for attachment to the loading platform. This structurally distinguishes over Nordstrom, as the Examiner appreciated during the interview, in a number of ways. First, there is no inside aperture of an anchor body in Nordstrom. Rather Nordstrom only has two rollers 16 attached to flange pieces at either end of the rollers and where one of the flange pieces attaches by an arm 12 to a pivot point 48. This arm has an aperture in it. However, the rollers are not positioned within the aperture in the arm. The fixation 40A for the arm to the platform in Nordstrom does not pass through any aperture where that aperture also has a cushioned roller retained within that inside aperture. In Nordstrom the opening in the arm 12 has nothing positioned inside of it. Claim 1 thus readily distinguishes over Nordstrom for this reason also.

The secondary reference Graf was only cited for a cushioned roller and thus does not satisfy the deficiencies of Nordstrom. However, there is also another independent reason why the combination of Nordstrom and Graf cannot suggest claim 1. Claim 1 recites that the roller positioned within the loop of the band is a cushioned roller. In Graf, although a cushioned roller is provided, the load rolls over this roller 19. If one were to substitute the rollers in Graf for the rollers in Nordstrom, one would have cushioned rollers on which the load would roll. But there still would not be any suggestion of a cushioned roller designed to be positioned within the loop of a band. Thus for this reason also, the combination of Nordstrom and Graf does not suggest claim 1.

Dependent claims 2-4 and 7-12 distinguish at least for the reasons claim 1 distinguishes and also by reciting additional features not suggested.

It is further noted that claim 1 is generic to all of the embodiments or species of the invention shown in the different drawing figures. The claim 1 language of a structure associated with the frame attachment where a portion of that structure passes through said inside aperture is language broad enough to read on not only the elected species of Figures 5A and 5B but is also readable, for example, on the structure of Figures 1, 2, and 3 where the U-shaped member and a bolt are provided as structure associated with the frame attachment; the species of Figures 6A, 6B where a triangular loop 32 is provided as the structure associated with the frame attachment; or the U-shaped loop 17 in Figure 7A associated with the frame attachment.

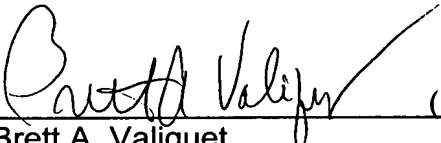
Independent claim 13 recites the features stressed above as distinguishing features over Nordstrom and/or Graf and thus claim 13 is also allowable at least for the reasons noted with respect to claim 1.

Just like claim 1, claim 13 is generic to the different species of the invention in view of the language "connecting member which connects said loop portion to the loading platform".

Dependent claims 14-19 distinguish at least for the reasons noted with respect to claim 13 and also by reciting additional structural features not suggested.

In conclusion, all of the apparatus claims 1-19 are allowable.

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